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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,539	10/11/2000	Jeff Schulz	FORE-81	5750
7590	11/01/2005		EXAMINER	
Ansel M Schwartz One Sterling Plaza 201 N Craig Street Suite 304 Pittsburgh, PA 15213			NG, CHRISTINE Y	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/686,539	SCHULZ, JEFF
	Examiner	Art Unit
	Christine Ng	2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 August 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-15 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1 and 9 is/are rejected.  
 7) Claim(s) 2-8 and 10-15 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 11 October 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,878,039 to Gorshe et al.

Gorshe et al disclose in Figure 1 a switch of a network for switching data comprising a fabric (Elements 34, 36, 38, 40, 46 and 52) for switching the data and a parity fabric (Elements 30 and 32). The switch also contains a connection mechanism (Element 9) connected to the fabric (Elements 34, 36, 38, 40, 46 and 52) for providing data to and from the fabric (Elements 34, 36, 38, 40, 46 and 52) and connected to the parity fabric (Elements 30 and 32) for providing parity data to and from the parity fabric (Elements 30 and 32). Refer to Column 3, lines 21-28.

The switch comprises a first port card (Element 10) which receives data from the network. "Bytes of data flowing into the interface unit are input immediately into the input port data latches 30,32 which receive data through their respective input ports 10 and 12" (Column 7, lines 28-31). The first port card (Element 10) performs first parity calculations on the data received at the first port card (Element 10) and produces first parity data from the first parity calculations. The input port latch (Element 30) of the first port card (Element 10) "contains a parity check circuit which provides indications at the

Parity Error outputs that parity errors have occurred" (Column 7, lines 37-39). Refer to Column 7, lines 28-48. The first port card (Element 10) is connected to the connection mechanism (Element 9) to send data to the fabric (Element 34, 38 and 46) at the connection rate and to send the first parity data to the parity fabric (Element 30) at the connection rate. The input port accepts data at a first payload data rate and the output port outputs data at a second payload data rate. Refer to Column 6, lines 25-31. As shown in Figure 4, the input port receives data at 38.88 Mbps but can switch data rate to 19.44 Mbps as the data travels through the switch fabric.

The switch comprises a second port card (Element 12) which receives data from the network. "Bytes of data flowing into the interface unit are input immediately into the input port data latches 30,32 which receive data through their respective input ports 10 and 12" (Column 7, lines 28-31). The second port card (Element 12) performs second parity calculations on the data received at the second port card (Element 12) and produces second parity data from the second parity calculations. The input port latch (Element 32) of the second port card (Element 12) "contains a parity check circuit which provides indications at the Parity Error outputs that parity errors have occurred" (Column 7, lines 37-39). Refer to Column 7, lines 28-48. The second port card (Element 12) is connected to the connection mechanism (Element 9) to send data to the fabric (Elements 36, 40 and 52) at the connection rate and to send the second parity data to the parity fabric (Element 32) at the connection rate. The input port accepts data at a first payload data rate and the output port output data at a second payload data rate. Refer to Column 6, lines 25-31. As shown in Figure 4, the input port receives

data at 38.88 Mbps but can switch data rate to 19.44 Mbps as the data travels through the switch fabric. The second port card (Element 12) also separates the data into streams of data that together equal the data received at the second port card that are sent concurrently at the connection rate to the fabric (Elements 36, 40 and 52) and combines the data streams received at the connection rate into data that is sent to the network. The input port latch (Element 32) of the second input port (Element 12) handles "20 bits of data in parallel as a 10-bit high byte and a 10-bit low byte" (Column 7, lines 34-35). Data is outputted to the corresponding output port (Element 16) as a 9-bit high byte and a 9-bit low byte. Refer to Column 3, lines 16-21.

Gorshe et al do not disclose that the first input port card receives data at a first rate and the second input port card receives data at a second rate. However, the claim does not state that the first rate and the second rate are different, so the first rate and the second rate can be the same, as disclosed by Gorshe et al.

However, it would be obvious to modify the invention of Gorshe et al to include that the first rate and the second rate are different. In U.S. Patent No. 5,784,369, Romiti et al disclose in Figures 15 and 16 a STM switch comprising a uniswitch core 102 for receiving data at a normal rate and a substrate switch unit 108 for receiving data at a substrate. Refer to Column 11, line 45 to Column 12, line 19 and Column 13, lines 22-37. "An add-on substrate switch is modularly connected to the normal rate switch and selectively switches one or more bits corresponding to one or more substrate channels within a timeslot at a data transmission rate which is less than the normal rate" (Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to include that the first input port card receives data at a first rate and the second input pod card receives data at a second rate; the motivation being that a switch should be able to support different rates since different telecommunication systems require different bit rates, thereby allowing the switch to accommodate more applications. Refer to Column 1, lines 14-40.

***Allowable Subject Matter***

3. Claims 2-8 and 10-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine Ng whose telephone number is (571) 272-3124. The examiner can normally be reached on M-F; 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C. Ng CW  
October 17, 2005

  
RICKY NGO  
PRIMARY EXAMINER  
10/31/05